

### Remarks

In response to the Office Action dated December 1, 2005, Claims 54, 59-61 and 69 have been amended as set out in the Listing of Claims. Care has been taken to avoid the introduction of new matter and basis for the amendments made is set out below.

Claims 54, 59-61 and 69 have been amended to specify that the fastener is a medical or surgical fastener based on Page 1 Line 2 of the application. The claims have also been amended to specify that the tubular sleeve has a first aperture through which the tube can pass at a first end of the sleeve and a second aperture through which the tube can pass at the second end of the sleeve. Basis for this clarification can be found throughout the specification, for example on Page 13 Line 6 and Fig. 5g.

Claim 54 has also been amended to delete the redundant line noted by the Examiner.

**A. Rejection of claims 54, 59-61, 69-72 and 75-79 under 35 U.S.C. 102(b) as being anticipated by Favalora et al. (US-A-5,480,203).**

Claims 54, 59-61, 69-72, and 75-79 stand rejected as being allegedly anticipated by Favalora. The claims submitted in the attached Listing of Claims are both novel and non-obvious over Favalora et al for several reasons as set out below.

Favalora **does not disclose a medical or surgical fastener**, rather the document discloses "a pulling tool for pulling a cable or cables" (Column 1 Lines 6-7). Hence the disclosure lies in a totally different field to that of the apparatus now claimed. Further, it is respectfully submitted that the device disclosed in Favalora would not be suitable for use as a medical fastener. For example the width of the device is disclosed as being typically "½ inch, 1 inch or 3 inches" (Column 5 Line 31), which points away from use of the device in most medical situations. Also, the device disclosed is not even intended for fastening, but is a "pulling tool". This means that the device disclosed in Favalora is not designed to allow the cable that is being pulled to operate when the pulling device is in situ around the cable, which are removed before use (Column 5 Lines 25-27).

It is further submitted that the pulling tool of Favalora does not comprise a tubular sleeve having a first aperture through which the tube can pass at a first end of the sleeve **and a second aperture through which the tube can pass at the second end of the sleeve**. Rather, the tool comprises one “open tail end” (Column 4 Line 63) and one “**closed lead end**” (Column 2 Line 46) with a “pulling member” (Column 3 Line 31), which is a closed end “formed by folding a first portion of the mesh sleeve back on itself” (as described at Column 4 Line 49-60).

The cables **do not pass through apertures** in the apparatus but are “**received within**” it (Column 3 Line 42) or “inserted into” it (Column 4 Line 62). It is noted that, in one embodiment of the present application, the second aperture is formed by passing the tube through the sleeve wall. However, the prior art specifically discloses that this is not possible with the system described since the “sleeve is very tightly weaved with very small openings between the groups of strands” specifically so that “the connectors will not protrude outwardly from the sleeve” (Column 5 Lines 11-14).

It is further respectfully submitted that the sleeve is not capable when lengthened of gripping a tube. The mesh disclosed in Favalora is provided more to protect the ends of the cables than to grip them (see Column 5 Lines 1-3). Indeed, **Favalora specifically discloses that the mesh is not capable of gripping the cables as set out in Column 5 Lines 8-10**, “since the strands are smooth and somewhat slippery, the mesh sleeve will slide along the exterior surfaces of cables and connectors”. **Further, tape is required to fix the mesh in position, as disclosed in Column 3 Lines 26-28**, “tape or some other suitable fastening device is used to securely couple the cables with connectors to pulling tube”, and Column 5 Lines 16-20 “a fastening member or device such as tape is wrapped around the open tail end of mesh sleeve and a portion of the fiber optic bundle so as to fixedly secure the fiber optic bundle to the mesh sleeve. Tape is important since sleeve is somewhat slippery”.

Nowhere in Favalora is the claimed subject matter suggested. Nor would it be obvious to implement these features on the basis of this disclosure. Further, the skilled person in the field of medical and surgical devices would not even look to the field of tools for electrical equipment when considering the problem of fastening a medical tube.

Each of the claims to which the Examiner has raised objections based on Favalora incorporate the features set out above, hence all of the claims are novel and non-obvious over the Favalora disclosure at least for the reasons set out above.

Hence, in summary, the applicant respectfully disagrees with the Examiner's assertion that claims 54, 59-61, 69-72 and 75-79 are anticipated by Favalora et al at least because the document does not disclose or suggest a medical or surgical fastener. Also, nowhere is there disclosed a tubular sleeve having a first aperture through which the tube can pass at a first end of the sleeve and a second aperture through which the tube can pass at the second end of the sleeve. Rather, the tool of Favalora is designed to prevent cables exiting the mesh structure. Further, rather than disclosing a sleeve that is capable when lengthened of gripping a tube, Favalora specifically discloses that the tool is not capable of gripping the cables and requires further fixing in its operation as a pulling tool.

Withdrawal of the outstanding anticipation rejection of claims 54, 59-61, 69-72 and 75-79 based on Favalora et al is accordingly respectfully requested.


**B. Allowable Subject Matter**

It is noted, with appreciation, that Claims 17, 32 and 33 are directed to allowable subject matter. With the amendments and comments presented herein, it is believed that all of the claims in the present application are now in allowable condition. Allowance of all claims is accordingly respectfully requested.

**C. Conclusion**

The applicant believes that this submission fully responds to all outstanding matters for this application. The applicant respectfully submits that the present application is in condition for allowance. Please contact the undersigned attorney at 512-536-3018 with any questions.

Respectfully submitted,



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